

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

**RECEIVED**

JAN 13 2026

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APPEAL FROM GREENVILLE COUNTY SC Court of Appeals

Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

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Case No.: 2023-CP-2302780

Armando Despaigne Zulveta, Appellant

v.

Augusta Lawn Care of Greenville, LLC, Respondent

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Armando Despaigne Zulveta

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To: John W. Kittredge, The Honorable Presiding Justice and Associate  
Justice Judges.

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

Email: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org) Phone: (803) 734-1890

Re: PETITION FOR REHEARING. Case No.: 2023-CP-2302780,

## PETITION FOR PANEL REHEARING.

Pursuant to Rule 221 of the South Carolina Rules of Court Procedure “SCRCP”) Appellant Armando Despaigne Zelveta, respectfully petitions this Court for a panel rehearing in the above-entitled matter.

### I. THE PARTIES.

**Petitioner:** Armando Despaigne Zelveta, former employee of Augusta Lawn Care of Greenville LLC.

**Respondent:** Augusta Lawn Care of Greenville LLC was the Petitioner Employer for Case No.: 2023-CP-2302780.

**Respondents:** Augusta Lawn Care of Greenville LLC (“Augusta”); James R. Richards (“Mr. Richards”); and Damien Padgett (“Mr. Padgett”); collectively (“the Employers”), were Petitioner’s Employers for Case No.: 2025-CP-2303524, filed with the Lower Court and introduced to this Court as listed No.: 6 at Designation of Matter to be Included in the Record on Appeal by having His Amended Complaint as the operative Complaint in this Case as Second (2<sup>nd</sup>) choice. See this Court’s record filed on January 16, 2025, Initial Brief Appellant, Trial Court Case No.: 2023-CP-2302780 and Case No.: 2025-CP-2303524.

### II. INTRODUCTION.

This petition is filed to address material points of law and facts that were overlooked or misapprehended in this Court’s decision dated

December 23, 2025, which Appellant received January 02, 2026.

## II. GROUNDS FOR REHEARING.

Error of Law – The Court’s opinion appears to conflict with established precedent in Supreme Court of South Carolina’s ruling in Ex Parte Henry W. Martin, Jr., Appellant v. The State, Respondent. In Re Henry W. Martin, Jr. #190394, Plaintiff.

Error of Law– The Court’s opinion appears to conflict with established precedent of Supreme Court of South Carolina’s in Mathis v. Brown & Brown of S.C., Inc., 698 S.E.2d 773, 778 (S.C.2010).

Error of Law– The Court’s opinion appears to conflict with established precedent of Supreme Court of South Carolina’s "Barron v. Labor Finders of S.C. 713 S.E. 2d 634, 636-37 (S.C. 2011) (citing Ludwick v. This Minute of Carolina, Inc., 337 S.E.2d 213 Inc., (S.C. 1985)).

Error of Law – The Court’s opinion appears to conflict with established precedent in South Carolina (“SC”) Code SECTION 41-1-70. Liability of employer for dismissal or demotion of employee who complies with subpoena or serves on jury.

Error of Law– The Court’s opinion appears to conflict with established precedent of Supreme Court of South Carolina’s "Taghivand v. Rite Aid Corp. 768 S.E.2d 385, 387 (S.C. 2015) (citations omitted).

Petitioner is asking this Court to review the action taken on December 23, 2025, Order Denying Petitioner to proceed In Forma Pauperis apparently without making an assessment in this Case which involves a “review worthy” issue as a legal claim that could be of interest to the South Carolina’s and The United States’ Supreme Court.

### III. MISAPPREHENSION OF FACTS.

The Court overlooked Ex Parte Henry W. Martin, Jr., Appellant v. The State, Respondent. In Re Henry W. Martin, Jr. #190394, Plaintiff., and the Court’s opinion relies on a factual finding that is unsupported by the record, specifically the Court’s opinion appears to conflict with established precedent of above Supreme Court of South Carolina’s ruling in Ex Parte Henry W. Martin, Jr., v. The State, which requires: ‘In the future, when an indigent litigant files a motion to proceed in forma pauperis pursuant to Rule 3(c), and the complaint does not appear to fit within one of the statutory or constitutional exceptions to the requirement of a filing fee, the clerk of court must submit the motion to a judge for a ruling as to whether the complaint does fit within one of the statutory exceptions “or” whether the cause of action concerns a fundamental right that requires waiver of the filing fee.’”

The Court notes that with this ruling Ex Parte Henry W. Martin, Jr., v. The State, 321 S.C. 533, 471 S.E.2d 134, 135 (1995) the “SC” Supreme Court made Two (2) distinction relating to who is qualified to proceed without

court fees which are; (1) the clerk of court must submit the motion to a judge for a ruling as to whether the complaint does fit within one of the statutory exceptions “or” (2) whether the cause of action concerns a fundamental right that requires waiver of the filing fee.”

Petitioner asserts that according to the translation of above Law he squarely is entitled to ruling: “or” (2) whether the cause of action concerns a fundamental right..., and the Court overlooked this matter of Equal Protection of the Law while Petitioner is prejudiced in the process by be stripped of classification “or” (2).

In doing so, the Court overlooked and the Court’s opinion relies on a factual findings that are unsupported and appear to conflict with established precedents of Supreme Court of South Carolina’s in *Mathis v. Brown & Brown of S.C., Inc.*, 698 S.E.2d 773, 778 (S.C.2010), and “*Barron v. Labor Finders of S.C.* 713 S.E. 2d 634, 636-37 (S.C. 2011) (citing *Ludwick v. This Minute of Carolina, Inc.*, 337 S.E.2d 213 Inc., (S.C. 1985)), which both support “SC” Supreme Court Ex Parte Henry W. Martin, Jr., v. The State, 321 S.C. 533, 471 S.E.2d 134, 135 (1995).

Petitioner agreed with South Carolina’s and United States’s Supreme Court that a motion to proceed in forma pauperis allows individuals facing financial hardship to access the court system without paying standard fees, ensuring equitable access to justice. Particularly in this Case, where Two (2) types of classifications make the Court to depart from its usual rational

basis scrutiny under the Equal Protection Clause: (1) when group burdened by the classification is "suspect" (e.g., a racial or ethnic minority, women, aliens or, (2) when the classification burdens what the Court determines to be a "fundamental right" that is being blocked by charging fees that prevent indigence from obtaining equal access to justice. Petitioner as a member of a federally protected group squarely fits this category (1) and (2) above plus, See also above Ex Parte Henry W. Martin, Jr., v. The State, "or" (2). Petitioner notes this Court that obviously, infortune, for Ex Parte Henry W. Martin, Jr., v. The State is not practicable to enumerate every single fundamental right which is included in this Case among other things: (1) Freedom of Speech; (2) Equal Protection of the Law, and (3) obedience of Petitioner fulfilling "SC" Pickens County's Magistrate Court's Order in taking care of the Case there and for which he was terminated from his employment, and retaliated by "the Employers".

According to Court's record, there is a fundamental error (or errors) in the opinion of the Court of Appeals which skews the analysis and result, or an erroneous finding of procedural default by the Court, and there is a reasonable possibility of a cure by means of a rehearing petition.

This Court should agree that Fundamental rights are a group of rights that have been recognized and adopted by the Supreme Court as requiring a high degree of protection from government intrusion. These rights are well established in the Constitution's Bill of Rights and particularly identified

through interpretation of clauses, such as under Due Process. And so, Review should also be granted by this Court based on the Due Process and Equal Protection Clause of the Law principles.

The Court overlooked and the Court's opinion appears to conflict with established precedent in South Carolina ("SC") Code SECTION 41-1-70. Liability of employer for dismissal or demotion of employee who complies with subpoena or serves on jury.

In relation to mentioned above Case No.: 2025-CP-2303524, filed with the Lower Court and introduced to this Court as part of this Appeal and listed as No.: 6 at Designation of Matter to be included in the Record on Appeal by having His Amended Complaint as the operative Complaint in this Case as Second (2nd) choice, Appellant clearly manifested that "the Employers" terminated his job as retaliatory result of him filled Eviction/Show Cause with Magistrate Court against "the Employers" even after, he has been warned by "the Employers" to not to do so since "Augusta" owner "Mr. Richards" besides to be Petitioner's Employer was also his Landlord who evicted him before a verbal contract of One (1) year Landlord-Tenant has expired. See this Court's record filed on August 05, 2025, Appellant's Designation of Matter to be Included in the Record on Appeal, listed as No.:6, previously filled June 05, 2025, with the Lower Court.

Moreover, Lower Court's record above indicates that in the Argument he argues that "Augusta" did not have adequate cause to terminate him other than in violation of Public Policy. As Tenant, he has State's and Federal's Constitutional Rights to exercise his Civil Rights in the Court by challenging "the Employers" Landlord Eviction without, neither interference nor intimidation nor retaliation from "the Employers". See Lower Court's record Case No.:2023-CP-2302780, Motion and Order Entry of Default Judgment Uncontested Breach, p.9, filled May 01, 2025.

In addition, on same Motion he also stated that here is an exception to at-will employment "where there is a retaliatory termination of the at-will employee in violation of a clear mandate of public policy." Barron v. Labor Finders of S.C., 713 S.E.2d 634, 636-37 (S.C. 2011) (citing Ludwick v. This Minute of Carolina, Inc., 337 S.E.2d 213 (S.C. 1985)). "Courts have invoked the public policy exception in two instances: (1) where an employer requires an employee, as a condition of continued employment, to break the law, and (2) where an employer's termination is itself illegal." Taghivand v. Rite Aid Corp., 768 S.E. 2d 385, 387 (S.C. 2015) (citations omitted). (S.C. 2011) (citing Ludwick v. This Minute of Carolina, Inc., 337, S.E.2d 213 (S.C. 1985)). These Two (2) Pubic policy exception (1) and (2) exception

apply to “Augusta” intimidating and coercive conduct placed when tried or attempt to block “the Plaintiff” access to the Court. See Lower Court’s record Case No.:2023-CP-2302780, Motion and Order Entry of Default Judgment Uncontested Breach, p.10, filled May 01, 2025.

Over this matter Petitioner asserts that any employer who dismisses or demotes an employee because the employee complies with a valid subpoena to testify in court proceeding or administrative proceeding or to serving on a jury of any court is subject to a civil action in the circuit court for damages caused by the dismissal or demotion. See South Carolina (“SC”) Code SECTION 41-1-70. Liability of employer for dismissal or demotion of employee...

The Supreme Court of The United States in *Homero v. United Staes* ruled that: “under the Constitution, certain “fundamental” or “basic” rights cannot be waived unless a defendant personally participates in the waiver.” See, e.g., *Taylor v. Illinois*, 484 U.S. 400, Illinois, 417–418 (1988)”.

And that is exactly how the decision of December 23, 2025, deny his access to proceed In Forma Pauperis (“IFP”) from the Court of Appeals that has left Petitioner forcibly waiving his fundamental rights under The State of South Carolina’s and The United States’ Constitution.

#### **IV. SIGNIFICANT PUBLIC INTEREST.**

The matter presented has broad implications beyond the parties and warrants reconsideration to ensure consistent application of the law. It is prejudicial and heightened scrutiny over the matter is justified from the Court. The modest cost savings to the state resulting from the mandatory fee is not sufficiently compelling reason to impose the burden that The South Carolina Court of Appeals on ruling of December 23, 2025, did against a Party's fundamental right during Court's proceedings.

#### **V. RELIEF REQUESTED.**

Appellant respectfully requests that the Court grant this petition, vacate its prior decision, and issue a revised opinion addressing the errors identified herein by Petitioner be allowed to proceed without costs on appeal complying with Rule 3(c), SCRPC, which provides for the filing of petitions to proceed in forma pauperis..

#### **IV. CONCLUSION**

For the foregoing reasons, Appellant prays that this Court grant the petition for rehearing. Respectfully submitted,

[DATE, PRINT NAME, AND SIGNATURE FOLLOWING PAGE.]

On this date the 7<sup>th</sup> of January, 2026.

 01/07/2026  
Armando Despaigne Zulveta

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[SPACE BELOW LEAVE IN BLANK ON PURPOSE].

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Augusta Lawn Care of Greenville, LLC, Respondent

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**CERTIFICATE OF SERVICE.**

This is to certify that a copy of Petitioner's Petition for Panel Rehearing has been forwarded to "Augusta", Registered Agent James R. Richards via United States Postal Service ("USPS") Mail with a prepaid postage at Address: 1312 Rutherford Rd., Greenville, South Carolina 29609.

On this day the 7<sup>th</sup> of January, 2026

  
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SC Court of Appeals

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